IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.3.2005

CORAM:

THE HONOURABLE MR.MARKANDEY KATJU, THE CHIEF JUSTICE

AND

THE HONOURABLE MR. JUSTICE F.M.IBRAHIM KALIFULLA

W.A. Nos. 1054, 1055 and 2169 of 1999

1. Ayyamuthu
2. S.Chinnusamy
3. Gandiammal
4. Palaniappan
5. Selvan
6. Mypal
7. Pappayammal
8. M.Palanisamy
9. M.Mathammal
10. R.Venkatachalam
11. V.Sekar
12. S.RAthinam
13. V.Manickam
14. K.Govinda Udayar
15. V.Muthusamy
16. Sellappan
17. Goundappan
18. Palaniappan
19. Pachiappan
20. Sellamuthu Udayar
21. Mayilammal
22. Senthilkumar
23. Pappathiammal — Appellants in WA 1054/1999

(10 & 23 are not necessary parties they are given up)

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1. S.Chinusamy
2. Gandhiammal
3. Subramanian
4. Goundappan
5. Pachiappan — Appellants in WA 1055/1999

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1. A.Kandasamy
2. Muthammal Appellants in WA 2169/1999

Vs.

1. The State of Tamil Nadu
   rep. by its Secretary to Government,
   Industries Department,
   Fort St. George, Chennai-9.

2. The Special Tahsildar (LA),
   Coke-Oven Plant Project,
   Mettur.

3. Southern Iron & Steel Company Ltd.,
   rep. by its Managing Director,
   Perianaickenpalayam,
   Coimbatore-641 020. Respondents in all writ appeals.

Prayer: Appeals under clause 15 of the Letters Patent against the order of this Court made in W.P.Nos.6799 to 6801 of 1997 dated 31.3.1999.

(W.P.Nos.6799 to 6801 /97 presented under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records compraised in G.O. (2.D) Industries No. 66 (66 to 68) dated 13.5.1996 as published in Tamil Nadu Government Gazette in Part II section 2 of Supplement dated 19.4.1995 and the G.O. (2.D) Industries No. 82 (80 to 82) dated 13.5.1996 as published in the Government Gazette in part II Section -2 Extra orderinary dated 14.5.1996 and to quash the same and direct the responents to notify the lands belonging to the petitioner with in the specified time.)

For Appellants in WA 1054 & 1055/99 ::Mr. R. Krishnamoorthy S.C for Mr.V.Ayyaduarai

For Appellants in WA 2169/99 :: Mr.D.Shivakumaran

For Respondents 1&2 in all Writ Appeals :: Mr.N.R.Chandran, Advocate General for V.Raghupathi, Govt.Pleader

For Respondent 3 in all Writ Appeals :: Mr.R.Gandhi, senior counsel for Mr.R.G.Narendiran

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JUDGMENT

(Judgment of the Court was delivered by
The Hon'ble Chief Justice.)

These writ appeals have been filed against the judgment of the learned single Judge dated 31.3.1999. We have heard Mr.V.Ayyadurai learned counsel for the appellants in W.A. Nos.1054 and 1055 of 1999 and Mr.D.Shivakumaran, learned counsel for the appellants in W.A. No.2169/99, Mr.N.R.Chandran, learned Advocate General for respondents 1 and 2 and Mr.R.Gandhi, learned senior counsel for respondent No.3.

2. Before the learned single Judge learned counsel for the petitioners/appellants had raised three arguments, which are as follows:

1. In as much as the third respondent has utilised only an extent of 120 acres out of an extent of 523 acres acquired for the very same purpose, the present acquisition of 156 acres is unnecessary and unwarranted. In other words, according to him, there is no need of any lands for the requisitioning body, accordingly the present acquisition is not warranted;

2. In as much as specific authorisation authorising the Special Tahsildar (Land Acquisition) to function as Collector under section 3(c) of the Act is not find place in the Tamil newspaper, it is not open to the second respondent to proceed with the acquisition proceedings, accordingly the same are vitiated;

3. The substance of section 4(1) notification was not published in the locality, which is a mandatory, accordingly the acquisition proceedings are liable to be quashed.

3. These submissions have been dealt with in great detail by the learned single Judge and we have perused his judgment and we fully agree with his reasonings as they are based on relevant statutory provisions and the case law on the point. The facts in detail have also been given in the judgment of the learned single Judge and hence we are not repeating the same. Learned counsel for the appellants wanted to raise an additional point which was not raised before the learned single Judge namely, that the acquisition was for a company and the procedure prescribed in Chapter VII of the Land Acquisition Act was not followed. This point was not raised before the learned single Judge and hence we are not inclined to consider this argument at this stage as it involves questions of fact.

4. It is well settled that the presumption in law is that a Judge deals with all the points which are pressed before him. It

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often happens that, say, ten points are taken in the memorandum of petition or appeal but only three of those points are pressed before the Judge. Naturally in this situation the Judge will deal with only those three points which were pressed before him, and the presumption will be that the other seven points were never pressed before him. This is, however, a rebuttable presumption, and if the learned counsel contends that in fact he pressed other points also although they have not been dealt with in the judgment by the learned single Judge, then the party should move an application before the same Judge who delivered the judgment and try to satisfy him that he had in fact pressed that point though it has not been considered in his judgment, vide C.Shanmugham v. Tamil Nadu Housing Board, 2005 (1) CTC 555 in which reliance has been placed on the Supreme Court decisions in Ram Bali v. State of Uttar Pradesh, 2004 (10) SCC 598 and Bhavnagar University v. Palitana Sugar Mills (P) Ltd., and others, 2003 (2) SCC 111.

5. We, therefore, dismiss all these writ appeals, but with liberty to the appellants to approach the learned single Judge with a suitable application, and if he satisfies the learned single Judge, who delivered the judgment, that in fact those additional points, which were not referred to in the judgment, were pressed before him, then the learned single Judge may pass such order on the application as he deems fit. No costs. Consequently, C.M.P.Nos. 10593, 10594 and 18257 of 1999 are also dismissed.

Sd/

Asst.Registrar

/true copy/

Sub Asst.Registrar

ns/pv

Copy to:

1. The Secretary to Government,
   Industries Department,
   Fort.St.George,
   Chennai - 9.

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2. The Special Tahsildar (LA)
Coke-Oven Plant Project,
Mettur.

1 cc to Mr. V. Ayyadurai, Advocate, SR. 13583
1 cc to Mr.D.Shivakumaran, Advocate, SR. 13982
1 cc to Mr.R.G.Narendiran, Advocate, SR. 13548
1 cc to The Govt. Pleader, SR. 13482

W.A. Nos. 1054, 1055
& 2169 of 1999

JRG (CO)
kk 31.3.05

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